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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,874	07/28/2003	Ranald J. Hay	1595-001	5578
7590 10/07/2004				
Steven R. Bartholomew, Esq. 63 Amberfield Road Trenton, NJ 08691-3639			EXAMINER CURTIS, CRAIG	
			ART UNIT 2872	PAPER NUMBER
DATE MAILED: 10/07/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,874

Applicant(s)

HAY, RANALD J.

Examiner

Craig Curtis

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 2872

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasgur (3,567,309).

With regard to independent claims 1, 6, 11, and 14, Jasgur discloses the invention as claimed--both a *system* and, by straightforward extension of the structural teachings of same, a *method* for enhancing visibility in the presence of specular media, said system (which in use meets the claimed method teachings) comprising:

(a) a light source (light source 19 in Fig. 2) including, or coupled to, a source polarization mechanism (*id.*: first polarizing means 21) for generating polarized light that is substantially polarized at a light source polarization angle (see Fig. 2);

(b) an observation filter (*id.*: second polarizing means 23) having a filter polarization angle of [read: an observation filter having a filter polarization angle corresponding to] (i) substantially maximum light attenuation, or (ii) substantially minimum light attenuation (both of these conditions (i.e., (i) and (ii)) being easily achievable via appropriate rotation of observation

Art Unit: 2872

filter 23 of Jasgur)--**EXCEPT FOR** an additional explicit teaching wherein (c) a mechanism is provided for adjusting the source polarization relative to the filter polarization angle, wherein the difference between the light source polarization angle and the filter polarization angle falls substantially within the range of 60 to 89 degrees or 91 to 120 degrees, so as to improve visual contrast between a distant object to be viewed and specular media, and wherein the distant object is situated at least two meters from the observation filter.

Jasgur, however, does provide an explicit teaching of a mechanism--namely, the small rotating tab 24 arcuately moveable in slot 25--for adjusting the filter polarization mechanism (and thus, simultaneously, said filter polarization angle) relative to said source polarization mechanism (*read: angle*). See column 3, lines 33-39.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified both the system and, by extension, the implicit method teachings of **Jasgur** such that a mechanism for adjusting the source polarization mechanism relative to the filter polarization angle--such teaching already explicitly disclosed by **Jasgur** w/r/t the orientation of said observation filter--for at least the purpose of varying the source polarization angle relative to the filter polarization angle so as to achieve improved visual contrast of specular media. Moreover, it would have also been obvious to one having ordinary skill in the art at the time the invention was made to have so modified the invention of **Jasgur** for such purpose, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). And finally, with regard to the recited angular ranges (i.e., wherein the difference between the light source

Art Unit: 2872

polarization angle and the filter polarization angle falls substantially within the range of *60 to 89 degrees* or *91 to 120 degrees* (emphasis added)), it would have been obvious to one having ordinary skill in the art at the time the invention was made to have ensured that said system and method of Jasnur be such as to allow angular adjustments to be made that satisfy the claimed requirement that the difference between the light source polarization angle and the filter polarization angle fall substantially within the range of 60 to 89 degrees or 91 to 120 degrees, for at least the purpose of optimizing overall contrast of specular media being viewed, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (CCPA 1955).

With regard to dependent claims 2 and 7, it is noted that although Jasnur does not expressly disclose wherein said interposing specular media comprise at least one of water droplets, ice, snow, fog, rain, sleet, hail, dust, dirt, metallic particles, and particles of sand, the reference does disclose a system for enhancing visibility in the presence of specular media, and even though a particular object of the invention is to provide a viewing device adapted for use by doctors, dentists, and biologists for examination of tissue, external skin areas, internal mucous membranes, and the like (see col. 1; ll. 69-72), such uses of the invention are merely exemplary, and one can easily imagine the invention of Jasnur being used, for the sake of example, by a geologist, in which case said interposing specular media would indeed comprise at least one of dust, dirt, metallic particles, particles of sand, etc. In point of fact, since virtually all volumes of air that haven't been subjected to extreme filtering processes contain (under favorable viewing

Art Unit: 2872

conditions) visible quantities of dust, one reasonably could assert that even when used by doctors, dentists, and biologists, the invention of **Jasgur** is used in environments in which specular media comprising at least one of dust, etc., is/are indeed interposed between an object to be viewed and said system.

With regard to claims 3-5 and 8-10, Applicant is again apprised that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

With regard to claims 12 & 15, **Jasgur** provides, implicitly if not explicitly, the recited teachings wherein said source polarization mechanism polarizes light at an angle within approximately thirty degrees of perpendicular to said glare-producing surface.

With regard to claims 13 & 16, it is again noted that the application of the invention of **Jasgur** is not limited to doctors, dentists, and biologists. For this reason, one can reasonably imagine said invention being utilized in environments in which said glare-producing surface would be at least one of: the surface of a body of water, a concrete surface, an asphalt surface, and a surface of a building.

With regard to independent claims 17 & 19, **Jasgur** discloses the invention as claimed **EXCEPT FOR** explicit teachings wherein said invention (both system and method) is infrared-based for enhancing night vision in the presence of an object that produces infrared glare. Night vision systems, however, are notoriously old and well known in the viewing art, as are sources, polarizers, and filters of infrared light, and the extension of the teachings of **Jasgur** to applications in which glare results not from a source of visible light but instead from a source of

Art Unit: 2872

infrared light amounts, in essence, to a straightforward extension of the visible-light teachings disclosed by **Jasgur** to the infrared region of the electromagnetic spectrum. Alternatively, since incandescent sources of light (like that depicted as 19 in Fig. 2 of **Jasgur**) emit a majority of their photons in the infrared region of the electromagnetic spectrum, and further since many individuals can visually perceive at least near-infrared radiation (700-780 nm), one could reasonably assert that Jasgur does in fact explicitly teach an invention (system and method) that comprises an infrared light source and associated IR filter and polarizer that, taken together, mitigate glare both in the visible and infrared regions of the electromagnetic spectrum (the enhancing night vision/visibility limitations recited in the preambles of these claims qualifying merely as intended uses of said invention and, as such, not having been afforded patentable weight).

And finally, with regard to claims 18 & 20, Applicant is again apprised that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

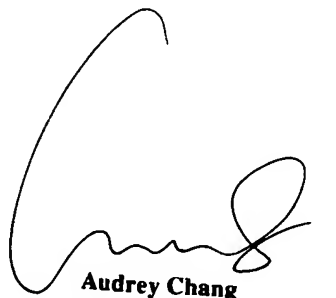
Art Unit: 2872

Contact Information

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Curtis, whose telephone number is (571) 272-2311. The examiner can normally be reached on Monday-Friday, 9:00 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn, can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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5 October 2004